

duced, that such summons was issued by the commissioners, and served by the sheriff. But, as it seems to be unjust, at once, to reject this claim merely because of what evidently appears to have been a mistake of the claimant, I shall let the matter stand over with leave to have the claim, if practicable, fully and correctly authenticated.

Ordered, that the claim as set forth in this petition stand over until the 20th instant, with leave to produce further proof.

After which an additional voucher of this claim was laid before the Chancellor.

BLAND, C., 24th August, 1831.—This claim having been authenticated by a certificate of one of the commissioners, that the subpoenas had been issued by them and served by the sheriff. It is ordered, that the legal fees for the services so performed by the sheriff of Anne Arundel County, be and the same are hereby allowed; and the register is hereby authorized and directed to tax the same as a part of the costs accordingly.

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### STEWART v. CHEW.

#### INJUNCTION TO STAY TRESPASS.

An injunction granted to stay trespass, there being no then depending suit to try the right, dissolved on the coming in of an answer which denied the trespass, and alleged that the acts complained of were done on his the defendant's own land. (a)

THIS bill was filed on the 5th of May, 1831, by William Stewart against John Chew; it stated, that at a sale made under a decree of this Court, the plaintiff had purchased a part of the tract of land called Elkton Head Manor, and was then in possession of it; and that the defendant had committed, and was then committing  
**441** great \* waste by cutting down timber trees and doing acts injurious to the land. Whereupon he prayed for an injunction to stay waste, for relief, &c. An injunction was granted as prayed.

The defendant in his answer admitted, that the plaintiff had made the purchase as stated; but especially denied, that he had or was then committing any waste as charged; and averred, that he, the defendant, had purchased another part of the same tract of land called Elkton Head Manor, adjoining to that purchased by the plaintiff, on which he had cut a large quantity of wood

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(a) See *Salmon v. Clagett*, ante, 125, note.